IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

FRIDAY, THE 14TH SEPTEMBER 2007 / 23RD BHADRA 1929

Crl.Rev.Pet.No. 310 of 1999()

CRA.137/1993 of I ADDL. SESSIONS COURT, TRIVANDRUM
CC.5/1987 of JUDL.MAGISTRATE OF FIRST CLASS COURT-V, TRIVANDRUM

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REVN. PETITIONER:

SHAHUL HAMEED NAZARUDDIN,
JAMEELA HOUSE,
ULIYAZHATHURA VILLAGE,
THIRUVANANTHAPURAM

BY ADV. SRI.S.RAJEEV
SRI.S.RAJEEV

RESPONDENTS:

STATE OF KERALA, REPRESENTED BY THE
PUBLIC PROSECUTOR,
HIGH COURT OF KERALA,
CRIME NO.174/CR/81
C.B.CID THIRUVANANTHAPURAM

BY PUBLIC PROSECUTOR, SRI C.K.SURESH

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON 14/09/2007, ALONG WITH CRRP NO. 363 OF 1999 CRRP NO. 409 OF 1999 CRRP NO. 668 OF 1999 THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

ORDER ON CRL.M.P.NO.1318/1999 IN CRL.R.P.NO.310/1999

DISMISSED.

SD/- K.R.UDAYABHANU, JUDGE

14/09/2007

\\TRUE COPY//

K.R.UDAYABHANU, J.

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Crl.R.P.Nos.310/1999, 363/1999,
409/1999 & 668/1999

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Dated this the 14th day of September, 2007

O R D E R

The revision petitioner in Crl.R.P.No.668/1999 is the first accused, the revision petitioner in Crl.R.P.No.363/1999 is the second accused, the revision petitioner in Crl.R.P.No.409/1999 is the third accused and the revision petitioner in Crl.R.P.No.310/1999 is the fourth accused in C.C.No.5/1987 of the Judicial Magistrate of the First Class-V, (Special Court for Marklist Cases), Thiruvananthapuram, who stands convicted for the offences under Sections 120B, 465, 468 read with Section 34 of the Indian Penal Code. The first accused is sentenced to undergo rigorous imprisonment for one year for the offence under Section 465 read with Section 34 I.P.C, to undergo rigorous imprisonment for one year for the offence under Section 468 read with Section 34 I.P.C and to undergo rigorous imprisonment for six months for the offence under Section 120B I.P.C with the direction that the sentences are to run concurrently. The second accused is sentenced to undergo rigorous imprisonment for six months for the offence under Section 120B I.P.C. The third accused is sentenced to undergo rigorous imprisonment for six months for the offence under

Section 120B I.P.C. The fourth accused is sentenced to undergo rigorous imprisonment for one year for the offence under Section 465 read with Section 34 I.P.C and rigorous imprisonment for one year for the offence under Section 468 read with Section 34 I.P.C with a direction that the sentences are to run concurrently.

2. The prosecution case is that accused No.1 is the lecturer in English in S.R.V.N.S.S College, Vazhoor, affiliated to the Kerala University and accused Nos.2, 3 and 6 are his friends, substituted the English answer paper of accused No.4 who appeared for the first Pre Degree examination held in April 1981 of the University of Kerala with the help of accused Nos.6 and 7 and provided high marks to accused No.4.

3. The evidence adduced in the matter consisted of the testimony of PWs.1 to 32 and Exts.P1 to P49. The defence got marked Ext.D1, portion of C.D of PW.3.

4. The counsel for the revision petitioners have only pleaded for leniency and modification of sentence pointing out that more than 26 years have elapsed since the commencement of the proceedings

(Crime No.174/CR/81) of C.B.C.I.D. It is also submitted that accused No.1 has been terminated from the service since long and is working as a teacher in a private school in somewhere in Karnataka and that he has suffered very much. It is also submitted that accused No.1 is right now around 65 years of age.

In the circumstances and considering the fact that two and a half decade is over, and that the accused were so long facing the ordeal of the criminal proceedings, I find that the imprisonment is to be avoided. Hence, the sentence imposed on accused No.1 for the offence under Section 468 read with Section 34 I.P.C is modified to imprisonment till the rising of the court and to pay a fine of rupees five thousand. He is also sentenced to pay a fine of rupees five thousand for the offence under Section 465 read with Section 34 I.P.C and also to pay a fine of rupees five thousand for the offence under Section 120B I.P.C. The sentence imposed on accused No.2 is modified to imprisonment till the rising of the court and to pay a fine of rupees five thousand for the offence under Section 120B I.P.C. The sentence imposed on accused No.3 for the offence under Section 120B I.P.C is modified to imprisonment till the rising of the court and to pay a fine of rupees five thousand. The sentence imposed on accused

No.4 is also modified to imprisonment till the rising of the court and to pay a fine of rupees five thousand for the offence under Section 468 read with Section 34 I.P.C and to pay a fine of rupees five thousand for the offence under Section 465 I.P.C read with Section 34 I.P.C. The default sentence for the non remittance of the fine amount would be simple imprisonment for six months each. The revision petitioners are granted two months time to remit the fine amount. They shall appear before the Judicial Magistrate of the First Class-V, (Special Court for Marklist Cases), Thiruvananthapuram, on 20/11/2007 to receive the sentence.

The criminal revision petitions are disposed of as above.

K.R.UDAYABHANU,
Judge

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K.R.UDAYABHANU, J.

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Crl.R.P.Nos.310/1999, 363/1999,
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O R D E R

14th September, 2007